

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Adler	Team: Squad #09	CCRB Case #: 202202774	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/02/2022 12:14 PM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 101	18 Mo. SOL 11/2/2023	EO SOL 11/2/2023	
Date/Time CV Reported Tue, 05/03/2022 12:22 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 05/03/2022 12:22 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Matthew Regan	16611	957992	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO James Fischetto	06113	956646	101 PCT
2. PO Jacqueline Demerest	08402	966537	101 PCT
3. PO Vince Vacca	30492	954388	101 PCT
4. PO Patrick Hartner	17947	945806	101 PCT
5. SGT Charles Lovelock	02274	942082	101 PCT
6. PO John Backer	04598	956405	101 PCT
7. PO Alicia Courgnaud	01483	966295	101 PCT
8. PO Albert Scott	31544	934162	101 PCT
9. PO Philip Jendzo	25651	966640	101 PCT
10. SGT Jeffrey Thompson	05178	955577	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Matthew Regan	Abuse: Police Officer Matthew Regan entered § 87(2)(b) bedroom inside § 87(2)(b) in Queens.	§ 87(2)(g), § 87(4-b)
B. PO Matthew Regan	Force: Police Officer Matthew Regan used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
C. PO Matthew Regan	Abuse: Police Officer Matthew Regan refused to provide his name to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

### Case Summary

On May 3, 2022, § 87(2)(b) filed this complaint over the phone with the CCRB.

On May 2, 2022, at approximately 12:14 P.M., PO Matthew Regan and additional officers of the 101<sup>st</sup> Precinct responded to § 87(2)(b) § 87(2)(b) in Queens. Also present were three of § 87(2)(b) siblings, including § 87(2)(b) and his mother, § 87(2)(b). While inside the apartment, PO Regan entered § 87(2)(b) bedroom (**Allegation A, Abuse of Authority:** § 87(2)(g)). After exiting the bedroom, PO Regan pushed § 87(2)(b) (**Allegation B, Force:** § 87(2)(g)) and refused to provide him with his name (**Allegation C, Abuse of Authority:** § 87(2)(g), § 87(4-b)).

Ultimately, § 87(2)(b) 25-year-old sister, § 87(2)(b) was arrested for assault and removed from the location (**01 Board Review**).

The investigation obtained body-worn camera (BWC) footage from the following officers, all assigned to the 101<sup>st</sup> Precinct: PO John Backer, Sgt. Charles Lovelock, PO James Fischetto, PO Patrick Hartner, PO Jacqueline Demerest, PO Vince Vacca, and PO Albert Scott (**02-08 Board Review**).

### Findings and Recommendations

#### **Allegation (A) Abuse of Authority: Police Officer Matthew Regan entered § 87(2)(b) bedroom inside § 87(2)(b) § 87(2)(b) in Queens.**

It is undisputed that officers responded to a 911 call at § 87(2)(b) § 87(2)(b) in Queens, regarding a domestic dispute between § 87(2)(b) and § 87(2)(b) § 87(2)(b) siblings. PO Regan responded to the incident after other officers had arrived. While inside the apartment, PO Regan heard a baby crying inside § 87(2)(b) bedroom; after which, he entered that room. § 87(2)(b) room was unrelated to the dispute.

§ 87(2)(b) stated that neither he nor his bedroom were related to the altercation between his siblings (**09 Board Review**). After approximately 13 to 15 officers had arrived on scene, § 87(2)(b) put his daughter into her playpen for a nap, turned off the lights, and left the bedroom with the door half-opened. Several minutes later, § 87(2)(b) heard his daughter crying and walked back to his bedroom. Upon approaching the room, he saw that the door was fully open. Prior to that point, no officer had entered or asked for permission to enter his room. § 87(2)(b) entered his room and saw that the lights were still off and PO Regan was standing beside and looking into the playpen. § 87(2)(b) asked PO Regan why he was inside the bedroom. PO Regan stated, "Cute kid." § 87(2)(b) again asked why PO Regan was in the room. PO Regan said that he heard a baby crying. § 87(2)(b) then told PO Regan to get out of the bedroom and he did so.

PO Regan's related memo book entry notes that after responding to a call for additional units at the location, he heard a child crying in an "unrelated room" and went in to calm the child, who was one to two years old in a crib (**11 Board Review**). An "unknown male" then approached and PO Regan immediately left the room at his request.

PO Regan did not independently recall the nature of the May 2, 2022 incident except that officers had called for back-up prior to his arrival (**12 Board Review**). Since multiple officers were inside the living room when he arrived, he moved to a hallway adjacent to the living room. There, he stood beside a bedroom, the door to which was ajar and the light of which was off. Nobody provided him with any information regarding the bedroom. After a few minutes of standing in the hallway, PO Regan heard a baby crying inside the bedroom. The apartment was noisy at the time but the baby's crying was loud enough to get his attention amid all the noise. PO Regan entered the bedroom to make sure the baby was okay given the ongoing family disputes. He did not ask for permission prior to entering the room and did not recall if any civilians were in the hallway when he entered. He did not need permission to enter due to believing that the baby, who had been exposed to domestic

violence situations, might need attention. He considered the entry to be a wellness-check on the baby. When PO Regan entered the room, he saw the baby standing in the crib and crying. Approximately 10 to 20 seconds later, § 87(2)(b) entered the bedroom and told PO Regan to exit. PO Regan then exited the room.

PO Regan did not engage his BWC during the incident in question (see OPMN below).

None of the BWC footage captures PO Regan entering into § 87(2)(b) bedroom or the interactions that occurred inside the bedroom **(02-08 Board Review)**.

In the 911 call recording for event § 87(2)(b), § 87(2)(b) brother (not § 87(2)(b)) states that his phone call with his 14-year-old brother dropped after he heard his brother arguing with his 25-year-old and 18-year-old sisters **(13 Board Review)**. At 01:13 in the radio recording for the same event, the dispatcher states the incident involves a brother and sister fighting and that the location has a history of domestic violence.

*People v. Desmarat*, 38 AD3d 913 states that officers may conduct a warrantless entry and search under an emergency exception only if they have “reasonable grounds” to believe there is “an emergency at hand and an immediate need for their assistance for the protection of life or property,” **(14 Board Review)**.

§ 87(2)(g)

**Allegation (B) Force: Police Officer Matthew Regan used physical force against § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Matthew Regan refused to provide his name to § 87(2)(b)**

It is undisputed that PO Regan pushed § 87(2)(b) in the hallway after they exited the bedroom. None of the BWC footage captures the interaction in the hallway between § 87(2)(b) and PO Regan **(02-08 Board Review)**.

§ 87(2)(b) testified that he exited the bedroom behind PO Regan, walking approximately an arm’s length away from him **(09 Board Review)**. He then turned toward another officer who was standing just beside the bedroom door and prepared to ask him a question. He did not say anything or make any physical motions other than walking. PO Regan then turned around, took one to two steps toward § 87(2)(b) and pushed him with one hand. The push was hard enough to cause § 87(2)(b) to lose his balance and take one step backward. Three officers then guided PO Regan out of the apartment.

§ 87(2)(b) testified that she saw PO Regan walking backward out of the bedroom into the hallway while § 87(2)(b) remained inside his room, holding his daughter **(10 Board Review)**. § 87(2)(b) then put his daughter down and walked into the hallway where he asked PO Regan why he had entered the bedroom. § 87(2)(b) stood with his back to his bedroom and his arms to his sides and spoke in an aggressive tone but did not make any threats. PO Regan stood facing him at approximately two feet distance. PO Regan answered that it was part of his job to make sure everything is okay. He then pushed § 87(2)(b) on the chest with both hands. An officer then escorted PO Regan out of the apartment.

At 46:43 in PO Backer’s BWC, several officers are standing in the area between the living room and § 87(2)(b) bedroom **(02 Board Review)**. No yelling is heard coming from the direction of the bedroom, and the sound heard comes from the officers’ conversation with § 87(2)(b). The bedroom and the adjacent hallway are not visible in the footage. At 46:49, PO Jendzo quickly moves down the hallway toward § 87(2)(b) bedroom as PO Regan walks toward him. A female civilian is heard asking, “Why do you have your hands on him?” § 87(2)(b) is standing several feet behind PO Regan asking, “What’s his name?” in a conversational tone. While PO Regan walks through the apartment PO Regan does not respond. At the time § 87(2)(b) is heard asking

for PO Regan's name, PO Backer, who is wearing the recording device, is standing next to PO Regan.

PO Regan's memo book states that § 87(2)(b) followed him out to the hallway and got in his "personal space" (11 Board Review). PO Regan then placed his hand to § 87(2)(b) chest and pushed back due to "personal safety concerns." § 87(2)(b) continued to be "aggressive" toward PO Regan, who then "removed [him]self from [the] situation due to escalating factors." PO Regan "provided [his] name as [he was] walking out of [the] apartment."

PO Regan testified that when he was inside the bedroom, § 87(2)(b) was standing in a "tensed-up" posture and was angry but that he did not have any safety concerns specific to § 87(2)(b) (12 Board Review). As PO Regan exited the bedroom, § 87(2)(b) exited behind him and stood less than an arm's length away from him while yelling at him for being inside the bedroom. The hallway going toward the front door was crowded with people whose attention was focused into the living room so that PO Regan was blocked into the hallway area adjacent to the bedroom. PO Regan then turned to face § 87(2)(b) who was standing inches away from him in a "tensed-up" posture and yelling in his face. He did not recall what § 87(2)(b) was saying. PO Regan was concerned for his safety at that point because when someone stands that close to him "you never know what could happen." § 87(2)(b) did not make any physical contact with PO Regan and did not appear to have any weapons on his person. PO Regan then pushed § 87(2)(b) on his chest with enough force to move him backward to an arm's length distance in order to ensure his own personal safety. PO Regan then pushed through the crowd of officers in the hallway and left the apartment to prevent any further escalation of the situation. As PO Regan was leaving the apartment, § 87(2)(b) asked for his name and he provided it. He did not know if § 87(2)(b) heard him. After watching PO Backer's BWC from 46:14 to 47:00, PO Regan acknowledged that he did not provide § 87(2)(b) with his name while walking toward the front of the apartment. He then altered his account, stating that he believed he provided his name while walking through the front door when § 87(2)(b) was not in earshot.

Patrol Guide Procedure 221-01 states that "force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody," (15 Board Review).

PO Regan's reason for believing § 87(2)(b) may use force against him, the yelling in his face, is contradicted by the BWC video. PO Regan did not have a reason to fear for his safety, other than the general possibility of something happening. § 87(2)(g)

NYC Administrative Code § 14-174 states that when an individual requests identifying information from an officer, that officer must offer a business card or verbally provide their information to that individual (17 Board Review). When providing their information verbally, officers must allow the civilian "sufficient time to record such information."

PO Regan testified that he heard § 87(2)(b) ask for his name but only provided it when he was walking out the front door and § 87(2)(b) was not in earshot. This does not meet the requirement outlined by the Administrative Code. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

#### Civilian and Officer CCRB Histories

- This the first CCRB complaint to which § 87(2)(b) has been a party **(19 Board Review)**.
- PO Regan has been a member of service for seven years and has been a subject in two additional cases and five additional allegations, none of which were substantiated. Two additional physical force allegations have been pleaded and unsubstantiated against PO Regan. Specifically, in 201806887, it was alleged that PO Regan kicked one civilian and pushed another civilian.

#### Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On October 16, 2022, the New York City Office of the Comptroller confirmed that no Notice of Claim was filed in regards to this complaint **(20 Board Review)**.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 9

Investigator:	<u>Rachel Adler</u>	<u>SI Rachel Adler</u>	<u>06/29/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Wassim Abedrabbo</u>	<u>IM Wassim Abedrabbo</u>	<u>06/29/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date